

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ELENO PARACALE Y PARDILLA, APPELLANT.

G.R. No. 141800. December 09, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A qualifying circumstance like treachery changes the character of the crime and increases the penalties that may be imposed. Hence, like the crime itself, it must be proven beyond reasonable doubt.

Statement of the Case

For review by this Court is the March 5, 1999 Decision[1] of the Regional Trial Court (RTC) of Iloilo City (Branch 36) in Criminal Case No. 38744, finding Eleno Paracale y Pardilla guilty of murder. The dispositive portion of the Decision reads as follows:

“WHEREFORE, in the light of the foregoing considerations, the Court FINDS the accused, ELENO PARACALE Y PARDILLA, GUILTY beyond reasonable doubt of the crime of MURDER qualified by treachery and hereby SENTENCES him to suffer the penalty of [r]eclusion [p]erpetua and all the accessory penalties provided for by law, to further pay the [h]eirs of the late Manolo Pasquin the amount of P50,000.00 by way of civil indemnity and P4,000.00 as attorney’s fees.

“Consequently, the standing bail bond for the provisional liberty of the accused is ordered cancelled pursuant to Supreme Court Administrative Circular No. 2-92 dated January 20, 1992. Let the corresponding mittimus or commitment order issue immediately after the promulgation of judgment.”[2]

Appellant was charged in an Information[3] dated September 9, 1992, worded thus:

“That on or about the 12[th] day of January, 1992 in the Municipality of Pototan, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating with three (3) others whose identities are presently unknown, with deliberate intent and without any justifiable motive, armed with firearms of unknown caliber, with treachery, evident premeditation and superior strength, did then and there wilfully, unlawfully and feloniously shoot and hit MANOLO PASQUIN with said firearms they were then provided, inflicting upon said Manolo Pasquin gunshot wounds on different parts of his body which caused his death thereafter.”[4]

Duly assisted by his counsel,[5] appellant pleaded not guilty to the charge during his arraignment on March 2, 1993.[6] Trial on the merits proceeded in due course. Thereafter, the RTC rendered the assailed Decision.

The Facts

Version of the Prosecution

In its Brief,[7] the Office of the Solicitor General (OSG) presents the prosecution’s version of the facts as follows:

“Around eight o’clock in the evening of January 12, 1992, Ninfa Pasquin was at her house situated in Sitio Inadlayan, Barangay Macatol, Pototan, Iloilo. She was busy preparing her lesson plan when she was alarmed by the barking of dogs. She looked outside the window and aided by the moonlight and her heavy-duty flashlight, she saw appellant with three (3) companions walking outside her fence. She noticed that appellant was carrying a shotgun while his companions were carrying firearms tucked at their waist. She thought that they were merely conducting their nightly rounds since appellant was then a barangay tanod.

“After observing the appellant and his companions, she returned to her table to continue her work. She, however, started feeling uneasy because her husband had not yet come home.

“About eleven o’clock of the same evening, Ninfa again looked outside the window and saw several persons hiding behind some tall grasses near their fence. She thought that one of them was her husband. She then went to the kitchen to wash her face.

“While washing her face, she heard an explosion near their house. She heard another explosion which prompted her to take her flashlight and look out the window. When she turned on the flashlight towards the place where the explosion came from, she saw appellant still carrying a shotgun and running away with his three companions. The four of them passed by the side of their fence. She also saw a person half-hanging at the entrance of the fence. While appellant was running, she heard him shout to his companions: ‘You run fast’. However, Ninfa could not identify the person at the entrance of their fence because he was lying prone on the ground.

“In great fear, she closed the window. After a while, she heard her name being called by Rex Dosado, her husband’s nephew. Rex shouted that his ‘Tiyo Manolo’ was at the entrance of their fence and that he was already dead. Forthwith, she ran downstairs, still carrying her flashlight. She and her nephew examined her husband’s body and they discovered two (2) gunshot wounds. Ninfa then ran to her brother-in-law, Felicisimo Pasquin, who lived nearby, and told him that her husband was already dead. Rex, on the other hand, reported the incident to the Barangay Kagawad who passed on the information to the Poto[t]an Police Station.

“The patrol team on duty immediately responded and found at the scene of the crime an empty shell of a shotgun. Ninfa also told them that right after she heard the shots, she saw appellant running away, holding a shotgun. She recognized the appellant not only because he was a barangay tanod in their area, but also he used to go to their house to buy eggs.

“The next day, a team from the Pototan Police Station, composed of SPO2 Romeo Benamarca, SPO3 Primo S. Cabrera, and SPO1 Enrico Parreño returned and invited appellant to go with them to Camp Delgado in order to conduct a paraffin examination. The results of the paraffin examination showed that appellant’s hands were positive for gunpowder nitrates.

“Dr. Isabel Cenal, Rural Health Physician of Pototan Rural Health Unit, examined the body of the victim. She found two (2) gunshot wounds on the body of the victim, both of which were fatal and caused his instantaneous death.

“After appellant learned of the positive result for gun powder nitrates, he immediately fled from Pototan. He was arrested several months later, on November 15, 1992, in Mandur[r]jiao, Iloilo by the members of the Mandur[r]jiao Police.”[8] (Citations omitted)

Version of the Defense

In his Brief,[9] appellant narrates his version of the facts as follows:

“Evidence for the defense shows that accused-appellant is 54 years of age, married, a vendor and a resident of Barangay Airport, Mandurriao, Iloilo City. He knew the deceased, the latter being a Barangay Tanod like himself. In the evening of January 12, 1992, he was in his house at Barangay Makatol taking care of his

grandson, when a certain Freddie Prinsipe arrived thereat. Prinsipe asked for his help to bring Manolo Pasquin to the hospital, because the latter was shot. Accused-appellant told him that he was taking care of his grandson but nevertheless, he was willing to leave him to the care of his neighbors. However, Prinsipe told him: 'Never mind, we will just do it', and left. Thereupon, accused-appellant and his grandson went to sleep. The following day at about 7:00 o'clock in the morning, he went to the house of the deceased and talked to the latter's widow regarding the alleged incident. Thereafter, he helped in the construction of a temporary bamboo shelter for the wake of the deceased. On the same day, he was fetched from his house and was requested to come along, together with four (4) persons, to the Pototan Police Station. From there, they were brought to the PNP Crime Laboratory in Iloilo City for paraffin examination, after which, they were allowed to go home." [10] (Citations omitted)

Ruling of the Trial Court

The RTC gave full faith and credence to the testimony of Ninfa Pasquin, who had positively identified appellant as her husband's assailant. It also believed the other prosecution witnesses, because they had no ill motive to testify falsely against him. [11]

The trial court likewise rejected the alibi of appellant and his allegation that he had been denied due process owing to the lack of preliminary investigation of the case. It said that he waived his right to a preliminary investigation, because he had not raised this question prior to entering his plea during the arraignment. It further held that treachery had qualified the killing as murder.

Hence, this appeal. [12]

Issues

Appellant assigns three supposed errors for our consideration:

"I

"The court a quo gravely erred in convicting the accused-appellant of the crime charged based on circumstantial evidence.

"II

"The court a quo gravely erred in giving weight and credence to the testimonies of the witnesses for the prosecution.

"III

"On the assumption that the accused-appellant committed the acts complained of, the court a quo gravely erred in convicting him of the crime of murder instead of homicide only, the qualifying circumstance of treachery not having been duly proven to have attended the commission of the crime charged." [13]

In sum, the issues boil down to two: (1) the sufficiency of the prosecution evidence and (2) the presence of treachery.

The Court's Ruling

The appeal is partly meritorious. Appellant is guilty of homicide only, not murder.

First Issue:

Sufficiency of Circumstantial Evidence

Appellant argues that the RTC's reliance on circumstantial evidence is misplaced. He avers that since only one circumstance was proven by the prosecution, there can be no basis for his conviction.[14] We are not convinced.

The trial court convicted appellant of murder based on these eight (8) pieces of circumstantial evidence:

"1. that minutes before the shooting incident, the accused Eleno Paracale was seen by Mrs. Ninfa Pasquin passing by the side of their fence together with three unknown companions;

"2. that moments after, when Mrs. Pasquin looked outside of their window waiting for her husband to come home, she saw several persons outside of their fence and being hidden by some tall grasses, in fact she even thought that one of them was her husband Manolo Pasquin who was on his way home;

"3. that after the shots had occurred, Mrs. Pasquin immediately looked outside of their window and with the use of a flashlight, she saw and positively recognized the accused Eleno Paracale running away together with three other unknown companions; she even heard the accused instructing his companions to run fast;

"4. that immediately after the shots, Mrs. Pasquin also saw a person half-hanging at the entrance of their fence who was later on identified to be her husband Manolo;

"5. that immediately after the incident, prosecution's witness Wilfredo Prinsipe proceeded to the house of the accused to ask for help and he noticed that the accused was nervous, walking back and forth and somewhat uneasy as if afraid of something; that even before they reached the house of the accused he heard him talking to some persons inside the house which was still lighted at the time;

"6. that the accused was one of those subjected by the police authorities to paraffin examination and found to be positive of gunpowder nitrates;

"7. that the accused after the incident transferred residence from Brgy. Macatol, Pototan, Iloilo to Mandurriao, Iloilo City;

"8. that even before the incident, the accused and the victim were no longer in good terms because barely two (2) weeks before the incident, the two had a heated argument wherein the victim was heard warning the accused that he would kill him if the accused would not kill him first." [15]

Circumstantial evidence is "that which indirectly proves a fact in issue through an inference that the factfinder draws from the evidence established. Resort thereto is essential when the lack of direct testimony would result in setting a felon free." [16]

It is akin to a tapestry made up of strands that create a pattern when interwoven, and that cannot be plucked out and considered one at a time independently of the others.[17] As a basis for conviction for a crime, it should be acted on and weighed with great caution, considering that it is preferable for the guilty to remain unpunished than for the innocent to suffer a long prison term unjustly.[18]

Conviction based on circumstantial evidence requires the concurrence of the following elements: (a) there is more than one circumstance, (b) the facts from which the inferences are derived are proven, and (c) the combination of all the circumstances produces a conviction beyond reasonable doubt.[19] To withstand judicial scrutiny, the circumstances must be inconsistent with the hypothesis that the accused is innocent or with any other rational hypothesis except that of guilt.[20]

Further, the law requires the positive identification of the accused as the perpetrator of the crime, not simply an eyewitness account of the act of committing the crime. By direct evidence, witnesses may identify the appellant as the culprit.[21] There are instances, however, when they may not have actually seen the very acts constituting the crime. They may, however, still be able to identify the perpetrator, as when their testimonies position the accused

at the locus criminis immediately before and after the occurrence.[22]

In the case at bar, the positive identification of appellant by Prosecution Witness Ninfa Pasquin forms part of the threads of circumstantial evidence. Taken as a whole, they inexorably lead to one fair and reasonable conclusion pointing to him, to the exclusion of all others, as the guilty person.[23] She testified thus:

“ATTY. FACON:

On January 12, 1992 on or about 11:00 o’clock in the evening, will you please tell the Honorable Court where you were?

WITNESS:

I was at the house together with my two (2) children.

ATTY. FACON:

At Sitio Inadlayan, Brgy. Macatol, Pototan, Iloilo?

WITNESS:

Yes sir.

ATTY. FACON:

While you were at your house, what were you doing there at your house at that time?

WITNESS:

I was at the sala preparing my lesson plan.

ATTY. FACON:

While you were at the sala preparing your lesson plan, can you please tell the Honorable Court whether there was unusual observation that you were observed at that time?

WITNESS:

Since the dog were barking I went to the door.

ATTY. FACON:

What happened next?

WITNESS:

While I was standing there I saw four (4) persons pass by the side of our fence.

ATTY. FACON:

Who were those persons whom you know?

WITNESS:

One of them was Eleno Paracale.

ATTY. FACON:

How about the three (3), were you able to identify them?

WITNESS:

I could not identify them.

ATTY. FACON:

This Eleno Paracale, is this the same Eleno Paracale the accused in this case?

WITNESS:

Yes sir.

ATTY. FACON:

If Eleno Paracale inside the courtroom, can you please point him?

(The witness points to a person inside the courtroom whom when asked to identify himself answered; I am Eleno Paracale).

ATTY. FACON:

After you have seen Eleno Paracale and his other three (3) companions what else have you observed?

WITNESS:

In my mind, I was thinking at that time that since Eleno Paracale is a member of the Barangay Tanod in our Barangay, he was just doing his tour of duty.

x x x x x x x x

ATTY. FACON:

So what did you do?

WITNESS:

I went to the kitchen in order to wash my face.

ATTY. FACON:

What time was that?

WITNESS:

Past 11:00 o'clock.

ATTY. FACON:

When you were washing your face at the kitchen what have you observed?

WITNESS:

While I was washing my face there was an explosion and I became afraid because my husband was not yet there and besides that explosion was very near in our house.

ATTY. FACON:

Can you tell this Honorable Court, what caused the explosion?

ATTY. GELVEZON:

She is incompetent, Your Honor.

ATTY. FACON:

Now, after you were washing your face or while you were washing, what else have you observed after you heard the explosion?

WITNESS:

While I was finishing there was another explosion.

ATTY. FACON:

So what did you feel?

WITNESS:

I felt afraid and then I took the flashlight and went to the window.

ATTY. FACON:

Can you tell this Honorable Court the sequence of the first shot to the second shot?

WITNESS:

Not even a minute between the two (2) shots.

ATTY. FACON:

When you got the flashlight and went to the window, what have you observed?

WITNESS:

When I turned on the flashlight I saw first Eleno Paracale carrying a shotgun with three (3) other companions running.

ATTY. FACON:

What else have you observed?

WITNESS:

And at the same time that I saw Eleno, I also saw a person half-hanging at the entrance of our fence.

ATTY. FACON:

What have you observed on Eleno Paracale?

x x x x x x x x

WITNESS:

He was running and he was also shouting to his companions, 'You run fast.'

ATTY. FACON:

So what did you do after that?

WITNESS:

In my great fright I closed our window and I did not know what to do at that time.

ATTY. FACON:

Did you identify who was that person half-hanging at your fence?

WITNESS:

I could not identify him because he was in prone position and his head was sagging on the ground.

ATTY. FACON:

So after that, after you close the window, what happened?

WITNESS:

A few minutes after, someone called out my name and I knew the voice. It belong to Rex Dosado a nephew of my husband.

ATTY. FACON:

What was he shouting?

WITNESS:

He was telling me that his Tiyo Manolo was at the entrance of our fence and that he was already dead.”[24]

In fine, the fact that Ninfa did not actually see appellant shoot the victim is not decisive in this case. What is essential is that immediately after the shooting, she saw appellant holding the shotgun while running away from the locus criminis.[25] This Court has always adhered to the established rule that in the absence of evidence showing that the witnesses were actuated by any improper motive, it must be presumed that they were not so motivated. Thus, the identification of herein appellant as the assailant may be given full faith and credit.[26] Indeed, as the wife of the victim, Ninfa is assumed to be interested in ensuring that the real culprit is punished, not in pinning down someone innocent of the crime.[27]

Her positive identification of appellant is further corroborated by several pieces of circumstantial evidence, forming an unbroken chain leading to the fair and logical conclusion that he killed the victim.[28]

First, Ninfa testified that prior to the shooting incident, she had seen appellant, together with three unknown companions, passing by their fence. Moments later, she heard gunshots. With a flashlight, she immediately looked outside the window and saw him carrying a shotgun, running away with his three unknown companions.[29]

Second, after seeing appellant, she spotted someone half-hanging at the entrance of their fence. She could not, at the time, identify the latter because he was in a prone position with his head sagging towards the ground.[30] This person turned out to be her husband.

Third, immediately after the incident, Prosecution Witness Wilfredo Prinsipe went to the house of appellant, who was then a barangay tanod. But the former saw, upon arriving at the house of appellant, the latter talking to some persons. When Wilfredo called him, the group suddenly hushed up.[31] He noticed that appellant was nervous, walking back and forth on his porch as if afraid of something.[32]

Fourth, Prosecution Witness Isidro Diaday testified that appellant was the only barangay tanod who carried a firearm.[33]

Fifth, the Medical Certificate,[34] dated April 24, 1992 and prepared by Dr. Cenal, stated that the victim died from two (2) gunshot wounds on the latter’s body.

Sixth, NBI Agent Ernesto Lim testified that Police Blotter Report Entry No. 92-32 dated January 13, 1992 stated that an empty shell of a 12-gauge shotgun had been recovered from the scene of the incident.[35]

Seventh, appellant tested positive for gunpowder nitrate after being subjected to paraffin examination by the police authorities.[36]

Eighth, appellant could not be located after the incident, as he had transferred residence from Pototan, Iloilo to Mandurriao, Iloilo City. He claims that he resigned from his position as barangay tanod in Pototan in 1992 and transferred to Mandurriao to help his wife run her sari-sari store.[37]

Ninth, in December 1991, Prosecution Witness Diaday heard appellant and the victim having a heated argument.

In that argument, the victim allegedly warned that he would kill appellant, unless the latter would preemptively kill the former first.[38]

From the foregoing, four things stand out. One, appellant's physical presence at the locus criminis or its immediate vicinity was established.[39] Two, the claim of Ninfa Pasquin that she saw appellant carrying a shotgun is confirmed by the empty shell of a 12-gauge shotgun found in the crime scene. Three, the paraffin test showing that the hands of appellant were positive for gunpowder nitrate constitutes corroborative evidence of his guilt.[40] In fact, he has been sufficiently identified as the one who shot the victim.[41] Four, his alleged change of residence to Mandurriao coincided with the investigation of the shooting incident. Being a barangay tanod of Pototan, he should have remained in Pototan, if he was innocent, and exerted every effort to resolve the case before moving to another location.

Verily, no general rule has been laid down as to the quantity of circumstantial evidence that will suffice to convict.[42] However, we are satisfied that the facts and circumstances of this case are consistent with the guilt of appellant and inconsistent with his claim of innocence. In weight and probative force, such evidence equals direct evidence in its effect upon the Court.[43]

Appellant's Alibi

Appellant insists that he was sleeping at home at the time of the shooting incident. We are not persuaded.

Basic is the rule that alibi, like denial, amounts to nothing more than negative and self-serving evidence unworthy of any weight in law.[44] It is always viewed with suspicion, because it is inherently weak and unreliable.[45] For it to prosper, the accused herein must be able to prove (a) that he was present in another place at the time of the perpetration of the offense, and (b) that it was physically impossible for him to have been at the scene of the crime.[46]

In the case at bar, appellant failed to meet these requisites.[47] While he tried to establish his presence in another place at the time of the perpetration of the offense, his testimony did not preclude any doubt about the physical impossibility of his presence at the locus criminis or its immediate vicinity at the time of the incident.[48] The prosecution established that his house was only 100 meters away from that of the victim.[49] Thus, it was not impossible for appellant to have been at the crime scene on the night in question and to have proceeded to his house immediately after the commission of the crime.[50]

Between appellant's alibi and the witnesses' testimonies, there is no doubt that the latter are entitled to credence.[51] Well-settled is the rule that the trial court's assessment of the credibility of witnesses is accorded great respect, owing to its direct opportunity to observe their demeanor during trial[52] and to note their conduct and attitude.[53] Indeed, the emphasis, the gestures, the inflection of the voice and the like are potent aids in ascertaining their credibility. The trial court had the advantage of these aids, which cannot be incorporated into the records. Appellate court, on the other hand, can only read the cold words of the witnesses as contained in transcripts of their testimonies, with the risk that some of what they have communicated by word and behavior may have been lost in the process of transcription.[54]

Second Issue:

Treachery Not Proven

Appellant argues that, assuming arguendo he was responsible for the death of the victim, he can be held guilty of homicide only, because treachery has not been proven.[55]

We agree.

Well-settled is the rule that treachery[56] must be proved by clear and convincing evidence as conclusively as the killing itself.[57] The essence of treachery is the swiftness and the unexpectedness of the attack upon the unsuspecting and unarmed victim, who has not been given the slightest provocation.[58] For treachery to be appreciated as a qualifying circumstance, it must be shown to have been present at the inception of the attack.[59] Two essential elements must concur: (1) the employment of means of execution that gives the person attacked no opportunity for self-defense or retaliation and (2) the deliberate or conscious adoption of the said means of execution. What is decisive is that the execution of the attack made self-defense or retaliation impossible on the part of the victim.[60]

In the case at bar, circumstantial evidence has failed to establish treachery,[61] First, there is no eyewitness to the killing, or at least to the manner of its execution.[62] No circumstantial evidence has been shown to prove that the attack on the victim came without warning, and that he had absolutely no opportunity to defend himself or to escape.[63] The lower court failed to consider that Ninfa had no knowledge of how the attack had been initiated or carried out. The crime was already a *fait accompli* when she looked out of the window of her house.[64] Since she did not see how it was begun and carried out, the qualifying circumstance of treachery cannot be applied.[65]

Second, the circumstantial evidence on record does not prove that there was any conscious or deliberate effort on the part of appellant to adopt any particular means, method or form of attack to ensure the commission of the crime without affording the victim any means to defend himself.[66] The fact that the gun was drawn and fired does not mean that the mode of attack was consciously and deliberately employed. The use of a shotgun, by itself, does not necessarily imply treachery.[67]

The RTC appreciated treachery, because the victim had been shot twice from behind as confirmed by the testimony of the medicolegal expert[68] and by the physical evidence showing the extent and the location of the wounds sustained by the victim.[69] However, the mere fact that the wounds were found at the back of the victim does not by itself prove that there was treachery.[70]

Also, the possibility that the assailant was positioned behind the victim does not necessarily show treachery, unless there is evidence that such manner of attack was purposely adopted by him[71] to accomplish the act without any risk to himself from the defense that the victim might make.[72]

Verily, the gap in the prosecution's evidence cannot be substituted by mere suppositions, as the trial court apparently did.[73] Treachery cannot be appreciated absent any particulars as to the manner in which the aggression commenced or how the act unfolded and resulted in the death of the victim.[74] Treachery cannot be presumed, but must be proven positively.[75] Any doubt as to its existence must be resolved in favor of appellant.[76]

Thus, appellant can be convicted of homicide only,[77] for which the penalty under the Revised Penal Code is reclusion temporal. Applying the Indeterminate Sentence Law and considering that there are no aggravating or mitigating circumstances present in this case, the penalty that should be imposed on him is prision mayor in its medium period as minimum to reclusion temporal in its medium period as maximum.[78]

WHEREFORE, the appeal is partly GRANTED and the appealed Decision MODIFIED. Appellant is CONVICTED of homicide and SENTENCED to imprisonment of six (6) years and one (1) day of prision mayor medium as minimum; to 14 years, eight (8) months and one (1) day of reclusion temporal medium as maximum. The award of civil indemnity *ex delicto* is AFFIRMED, but the grant of attorney's fees is DELETED for lack of basis. No pronouncement as to costs.

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Judge Quirico G. Defensor; rollo, pp. 26-44; records, pp. 618-636.

[2] RTC Decision, p. 19; id., pp. 44 & 636.

[3] Rollo, pp. 14-15; records, pp. 1-2; signed by Asst. Provincial Prosecutor Nelson S. Geduspan.

[4] Id., pp. 1 & 14.

[5] Atty. Cirilo Galvezon.

[6] Order dated March 2, 1993; records, p. 130.

[7] Appellee's Brief was signed by Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Josefina C. Castillo and Solicitor Ismael G. Miaral.

[8] Appellee's Brief, pp. 4-9.

[9] Appellant's Brief was signed by Attys. Amelia C. Garchitorea, Marvin R. Osias and Alteza A. Año -- all of the Public Attorney's Office.

[10] Appellant's Brief, pp. 8-9; rollo, pp. 89-90.

[11] Assailed Decision, p. 15; rollo, p. 40.

[12] This case was deemed submitted for resolution on September 2, 2002, upon this Court's receipt of appellee's Brief. The filing of a Reply Brief was deemed waived, as none had been submitted within the reglementary period.

[13] Appellant's Brief, pp. 1-2; rollo, pp. 82-83. Original in upper case.

[14] Appellant's Brief, p. 12; rollo, p. 93.

[15] RTC Decision, pp. 12-13; rollo, pp. 37-38.

[16] *People v. Rendaje*, 344 SCRA 738, 746-747, November 15, 2000, per Panganiban, J.

[17] *People v. Leaño*, G.R. No. 138886, October 9, 2001; *People v. Ragon*, 282 SCRA 90, November 18, 1997.

[18] *People v. Solis*, 350 SCRA 608, January 30, 2001, citing *People v. Salangoste*, 188 SCRA 422, August 8, 1990.

[19] *People v. Ragon*, 282 SCRA 90, November 18, 1997; *People v. Verano*, 264 SCRA 546, November 21, 1996; *People v. Malimit*, 264 SCRA 167, November 14, 1996.

[20] *People v. Maluenda*, 288 SCRA 225, March 27, 1998; *People v. Casingal*, 243 SCRA 37, March 29, 1995; *People v. Abitona*, 240 SCRA 335, January 20, 1995.

[21] *People v. Casingal*, 337 SCRA 100, August 1, 2000.

[22] *People v. Grefaldia*, 298 SCRA 337, October 30, 1998.

[23] *People v. Mijares*, 297 SCRA 520, October 8, 1998.

- [24] TSN, July 7, 1993, pp. 15-21.
- [25] *People v. Casingal*, supra.
- [26] *People v. Baltazar*, 352 SCRA 678, February 26, 2001; *People v. Reyes*, 292 SCRA 663, July 20, 1998.
- [27] *People v. Carillo*, 333 SCRA 338, June 8, 2000.
- [28] *People v. Casingal*, supra.
- [29] TSN, July 7, 1993, p. 19.
- [30] *Id.*, p. 20.
- [31] TSN, May 30, 1995, p. 7.
- [32] *Id.*, p. 11.
- [33] TSN, November 15, 1994, p. 29.
- [34] Records, p. 40.
- [35] TSN, September 27, 1994, p. 10.
- [36] See Laboratory Examination Report, Exhibit “C”; records, p. 43.
- [37] TSN, October 28, 1998, p. 25.
- [38] TSN, November 15, 1994, p. 12.
- [39] *People v. Rendaje*, supra.
- [40] *Maandal v. People*, G.R. No. 144113, June 28, 2001.
- [41] *People v. Alolod*, 266 SCRA 154, January 7, 1997.
- [42] *People v. Faco*, 314 SCRA 505, September 16, 1999.
- [43] *People v. Payot*, 308 SCRA 43, June 8, 1999; *People v. Mahinay*, 302 SCRA 455, February 1, 1999; *People v. Dabbay*, 277 SCRA 431, August 15, 1997; *People v. Alberca*, 257 SCRA 613, June 26, 1996; *People v. Abitona*, 240 SCRA 335, June 20, 1995.
- [44] *People v. Moreno*, G.R. No. 140033, January 25, 2002.
- [45] *People v. Navales*, 337 SCRA 436, August 8, 2000.
- [46] *People v. Napud*, G.R. No. 123058, September 26, 2001, citing *People v. Villanos*, 337 SCRA 78, August 1, 2000; *People v. Aranjuez*, 285 SCRA 466, January 29, 1998.
- [47] *People v. Cristobal*, 306 SCRA 358, April 29, 1999.
- [48] *People v. Andres*, 296 SCRA 318, September 25, 1998; *People v. Tulop*, 289 SCRA 316, April 21, 1998; *People v. Palarco*, 288 SCRA 151, March 26, 1998.
- [49] TSN, July 7, 1993, p. 33.
- [50] *People v. Arellano*, G.R. No. 125442, September 28, 2001.
- [51] *People v. Arrojado*, 350 SCRA 679, January 31, 2001.

[52] *People v. Garces Jr.*, 322 SCRA 834, January 20, 2000.

[53] *People v. Basquez*, G.R. No. 144035, September 27, 2001; *People v. Jaberto*, 307 SCRA 93, May 12, 1999; *People v. Deleverio*, 289 SCRA 547, April 24, 1998.

[54] *Maandal v. People*, *supra*.

[55] Appellant's Brief, p. 13; rollo, p. 94.

[56] Article 14(16) of the Revised Penal Code provides:

“There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.”

[57] *People v. Orio*, 330 SCRA 576, April 12, 2000.

[58] *People v. Ubaldo*, 342 SCRA 338, October 9, 2000, citing *People v. Rebamontan*, 305 SCRA 609, April 13, 1999.

[59] *People v. Porras*, 255 SCRA 514, March 29, 1996.

[60] *People v. Arrojado*, *supra*; *People v. Marcelino*, 316 SCRA 104, October 1, 1999.

[61] *People v. Cabug*, 355 SCRA 391, March 27, 2001.

[62] *People v. Raquiño*, 315 SCRA 670, September 30, 1999; *People v. Sañez*, 320 SCRA 805, December 15, 1999.

[63] *People v. Santos*, 332 SCRA 394, May 31, 2000; *People v. Bahenting*, 303 SCRA 558, February 24, 1999.

[64] *Maandal v. People*, *supra*.

[65] *People v. Amamangpang*, 291 SCRA 638, July 2, 1998, citing *People v. Salvador*, 224 SCRA 819, July 30, 1993; and *People v. Cordero*, 217 SCRA 1, January 5, 1993.

[66] *People v. De Mesa*, G.R. No. 137036, March 14, 2001.

[67] *People v. Gonzalez*, G.R. No. 139542, June 21, 2002.

[68] TSN, July 7, 1993, p. 7.

[69] Assailed Decision, p. 17; rollo, p. 42.

[70] *People v. De Mesa*, *supra*.

[71] *People v. Garcia*, 258 SCRA 411, July 5, 1996.

[72] *People v. De Mesa*, *supra*.

[73] *People v. Porras*, *supra*.

[74] *People v. Ayupan*, G.R. No. 140550, February 13, 2002; *People v. Nalangan*, 270 SCRA 234, March 20, 1997.

[75] *People v. Sioc Jr.*, 319 SCRA 12, November 24, 1999.

[76] *People v. Santos*, *supra*.

[77] *People v. Hilot*, 342 SCRA 128, October 5, 2000.

[78] *People v. De Mesa*, *supra*.

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